

CITY OF LINCOLN, NEBRASKA
COMMISSION ON HUMAN RIGHTS MINUTES
March 27, 2014
CITY COUNCIL CHAMBERS, 555 S. 10TH STREET

The March 27, 2014, meeting of the Commission on Human Rights was called to order at 4:02 p.m. by Bennie Shobe, Chair.

SWEARING-IN OF NEW COMMISSIONERS:

The city clerk performed the swearing-in for two new members: Jon Rehm and Melanie Ways.

ROLL CALL:

The roll call was called and documented as follows:

MEMBERS PRESENT:

Commissioners: Bennie Shobe (Chair), Mary Reece (Vice-Chair), Liz King, Sue Oldfield, Takako Olson, Jon Rehm, Micheal Q. Thompson and Melanie Ways. Quorum present.

MEMBERS ABSENT:

None.

STAFF PRESENT:

Kimberley Taylor-Riley, Angela Lemke, Margie Nichols, Loren Roberts, Peg Dillon, and Jocelyn Golden.

APPROVAL OF FEBRUARY 27, 2014 MINUTES:

A motion was made by Oldfield and seconded by Reece to approve the minutes of the February 27, 2014 meeting. Shobe asked for the roll call. Voting "aye" was: Oldfield, Olson, Reece, Shobe, and Thompson. Abstaining was King, Rehm and Ways. Motion carried.

APPROVAL OF MARCH 27, 2014, AGENDA:

A motion was made by Reece and seconded by Olson to approve the meeting agenda. Shobe asked for the roll call. Voting "aye" was: King, Oldfield, Olson, Reece, Shobe, and Thompson. Abstaining was Rehm and Ways. Motion carried.

CASE DISPOSITIONS:

LCHR #13-0905-028-E-R

A motion was made by Olson and seconded by King to recommend a finding of **Reasonable Cause** on all issues.

Shobe asked about the information that was left off of the matrix and wondered if it was recalculated later. Lemke said the Respondent did remove a line from the electronic version, but allegedly this did not change the numbers. Shobe asked about another candidate for the job not having an earlier injury listed on the matrix. Lemke said the Respondent allegedly forgot about this injury.

Rehm asked when the employer found out about the work injury of the Complainant. Lemke replied that the Respondent would have found out about it at the time of the injury, about six months before the job was posted.

Thompson asked if the female that had the same scores as two males was even offered the position. Lemke answered no she was not. Lemke continued by discussing the two different issues involved in this case and how it could result in different outcomes. The first issue was with the injuries of the two employees resulting in a point deduction, which could result in disability discrimination and the fact that the male did not see a similar deduction could be evidence of sex discrimination. She explained that if the male had been downgraded because of his injury another female would have been offered the job. If none of them had been downgraded due to injuries at work, then this same male would have scored the highest on the matrix. Rehm questioned the seniority issue as it involved the union. Lemke said the union contract did not govern this particular job but seniority would have been taken into account in the event of a tie.

A discussion ensued about whether or not any gender-related statements were made, and Commissioner Shobe questioned the height and weight restrictions included in the job description. Lemke said the job description was from 1955, and did include minimum height and weight restrictions. Discussion ensued about this, and how the job description needed to be updated. Thompson asked if the additional physical therapy for the Complainant was required by the Respondent and Lemke replied that no, it was not.

Hearing no further discussion, Shobe asked for the roll call. Voting "aye" was: King, Oldfield, Olson, Reece, Shobe, and Thompson. Abstaining was Rehm and Ways. Motion carried.

LCHR #13-0905-029-E-R

A motion was made by Oldfield and seconded by Thompson to recommend a finding of **No Reasonable Cause** on all issues.

A discussion ensued about the Respondent's role in correcting the alleged discrimination by the company, and case law was recited by Lemke in an attempt to clarify the role. Lemke explained the difficulty the Respondent faced in deciding whether to pursue the matter since the Collective Bargaining Agreement did not specify the hiring criteria for the position. Shobe asked for clarification about the grievance process. Lemke replied that the Respondent's position was that if the issue reached arbitration, the arbitrator would inquire as to whether the employee gave the Company an opportunity to correct it.

Hearing no further discussion, Shobe asked for the roll call. Voting "aye" was: King, Oldfield, Olson, Reece, Shobe, and Thompson. Abstaining was Rehm and Ways. Motion carried.

LCHR #13-0911-030-E-R

A motion was made by Oldfield and seconded by Olson to recommend a finding of **Reasonable Cause** on the issue of discrimination based on sex.

Shobe asked for discussion on this case. Lemke clarified that it was similar to the previous case but no injury was involved so the single issue would be discrimination based on gender. The fact that the Complainant was pre-qualified for the position was discussed, and whether or not employees were properly or improperly downgraded based on a prior work-related injury was discussed in relation to how it affected the scoring of the matrix. Reece questioned the alleged discouragement from applying for the job, and the fact that the Complainant had previously held the job made the "warning" seem even more questionable.

Lemke discussed the many inconsistencies in the matrix scoring, and explained that the timeframes used to record injuries were different for the candidates in a previous selection, a female for the selection in question had an injury over one year ago, but this was still used against her, and some of the categories on the matrix were subjective. Olson asked if this procedure has remained the same after these cases were filed and if the Complainant was still employed. Lemke replied that she was not sure if the procedure has changed and yes the Complainant is still employed.

Hearing no further discussion, Shobe asked for the roll call. Voting "aye" was: King, Oldfield, Olson, Reece, Shobe, and Thompson. Abstaining was Rehm and Ways. Motion carried.

LCHR #13-0911-031-E-R

A motion was made by Olson and seconded by King to recommend a finding of **No Reasonable Cause** on the issue of discrimination based on sex.

Hearing no discussion, Shobe asked for the roll call. Voting "aye" was: King, Oldfield, Olson, Reece, Shobe, and Thompson. Abstaining was Rehm and Ways. Motion carried.

LCHR #13-1107-036-E-R

A motion was made by Shobe and seconded by Reece to recommend a finding of **No Reasonable Cause** on all issues.

There was general discussion on why the doctor wasn't contacted to help clarify what the next step should be. Nichols replied that there were two different versions of the situation. The Respondent said that even though they offered an extended leave to the Complainant, she insisted that she could no longer work. The Complainant claimed that they never offered an extended leave and she was not clear about what paperwork the doctor was asking for. The Administrator then requested a resignation letter, which was completed later with the help of the Complainant's counselor, but never turned in.

Nichols said she asked the counselor if the Complainant told her that she was being forced to resign, and the counselor said no. Rehm asked for clarification about the job description and it was discussed that the job required being on their feet about 90% of the time.

There was discussion about reasonable accommodation. Nichols clarified that the Respondent stated the Complainant told them she was not able to work at all and turned down the reasonable accommodation of an extended leave of absence. Reece questioned why the Respondent wanted a doctor's note. Nichols replied that the Respondent stated it wanted it for their records.

Reece asked about the ability of the Complainant to absorb information since she was under a great deal of stress at the meeting. Nichols replied that the Respondent said that the Complainant was calm by the end of the meeting; however the Counselor stated the Complainant was upset at the meeting with her.

Hearing no further discussion, Shobe asked for the roll call. Voting "aye" was: King, Oldfield, Olson, Reece, Shobe, and Thompson. Abstaining was Rehm and Ways. Motion carried.

LCHR #13-1218-015-H

A motion was made by Reece and seconded by Olson to recommend a finding of **No Reasonable Cause**.

King asked why the owner changed the yearly leases to monthly. Nichols said that he had just purchased the units and wanted to evaluate which apartments needed work. There was discussion on how the Complainant's housing assistance required her to have a year lease, that the Respondent complied with her current lease until it ended, and that there was no evidence to show her lease termination and ultimate eviction was related to her race.

Hearing no further discussion, Shobe asked for the roll call. Voting "aye" was: King, Oldfield, Olson, Reece, Shobe, and Thompson. Abstaining was Rehm and Ways. Motion carried.

OLD BUSINESS:

The 2014 Civil Rights Conference was discussed by Mestre-Roberts. New commissioners were welcomed and invited to participate in the Conference. Currently there are 180 people registered. Brochures were handed out to the new commissioners. The Conference will be April 1st, at the Cornhusker Hotel in downtown Lincoln. Exhibits will be setup for 16 different agency services to be highlighted. Mestre-Roberts mentioned the main sponsors that contribute to making the Conference possible.

Nichols introduced the two new commissioners that were sworn in, Jon Rehm and Melanie Ways, discussed the new commissioner training that would occur in April, and invited current Commissioners to attend as a refresher.

NEW BUSINESS:

Community Outreach was discussed by Roberts and the history of the Mayor's interest in increasing the number of women, veterans, minorities and people with disabilities to be hired within the city/county employee workforce. She has been working with Taylor-Riley and Human Resources to increase the number of minorities hired. The initiative has been successful in increasing the percentage of minorities hired from 3.6% in 2011, to 5.69% in 2012 and 7.53% in 2013.

Roberts talked about her work with refugees and how important these projects are to her. She works most closely with youths in these groups especially Spanish speaking individuals that are struggling. April 29th is the cultural awareness training for city/county employees. June 28th is the World Refugee Day at Lincoln High School. They are attempting to get approval to include a citizenship ceremony for that day. June 23rd is a safety child car seat event to assure the safety of car seats and their installation for several families involved in this event. Juneteenth will be June 21st this year. Currently, Equal Employment and Fair Housing sessions are presented by Roberts at the Lincoln Housing Authority, Centerpointe, cultural centers, and Lincoln public high schools.

Next Meeting:

The next meeting will be Thursday, April 17, 2014, at 4:00 p.m. in Room 303 at the County City Building at 555 S. 10th Street.

The meeting was adjourned at 5:08 p.m.